

DISPOSITION OF FEDERAL RECORDS

Penalties for Unlawful Destruction

Are you one of those people who hangs on to papers that are no longer of use to you because you are afraid you might destroy something that could be considered a "record" under law? You certainly couldn't be blamed for being concerned if you had read the following Sections of Title 18 of the United States Code:

234. Destroying public records. Whoever shall willfully and unlawfully conceal, remove, mutilate, obliterate, or destroy, or attempt to conceal, remove, mutilate, obliterate, or destroy, or, with intent to conceal, remove, mutilate, obliterate, destroy, or steal, shall take and carry away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than \$2,000, or imprisoned not more than three years, or both.

235. Destroying records by officer in charge. Whoever, having the custody of any record, proceeding, map, book, document, paper, or other thing specified in Section 234 of this Title, shall willfully and unlawfully conceal, remove, mutilate, obliterate, falsify, or destroy any such record, proceeding, map, book, document, paper, or thing, shall be fined not more than \$2,000, or imprisoned not more than three years, or both; and shall moreover forfeit his office and be forever afterward disqualified from holding any office under the Government of the United States.

Legal Definition of Records

In view of the above, you might be wise to have some knowledge of just what "records" are as used in law. The word "records," as defined in the Records Disposal Act of July 7, 1943, as amended, includes --

all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein.

Nonrecord Materials

It might be simpler in deciding what can be destroyed to approach the problem from the opposite angle. The Records Disposal Act identifies certain specific types of materials that are nonrecord materials that all serve purposes other than "record" purposes. They include:

- ▶ Materials preserved solely for purposes of reference or exhibition in libraries or museums.
- ▶ Extra copies of documents preserved only for convenience of reference, such as:
 - "reading file" copies of correspondence,
 - "tickler," "follow-up," or "suspense" copies of correspondence,
 - identical duplicate copies of all documents maintained in the same file and
 - extra copies of printed or processed materials of which official copies have been retained for purposes of record.
- ▶ Stocks of publications and processed documents preserved for supply purposes.
- ▶ Preliminary or intermediate drafts of letters, memoranda, reports, or other papers, and preliminary worksheets and informal notes that do not represent significant basic steps in the preparation of record copies of documents.

▶ Letters of transmittal that do not add any information to that contained in the transmitted material.

▶ Memoranda or other papers that do not serve as the basis of official actions, for example, notices of holidays or of Red Cross or Community Chest appeals and notices of activities of Government associations or unions.

▶ Shorthand notes, including stenographic notebooks and stenotype tapes, that have been transcribed.

If you are still in doubt whether your material is an official record or nonrecord material, we suggest that you get in touch with your Records Administration Officer.

Legal Disposal is Authorized

Don't despair. Many official records have a specified life span and may be legally destroyed. A Schedule of retention periods for Government records has been approved by Congress and is a part of our Records Program. Even if you have a unique file not on the Schedule, your Records Administration Officer can obtain a legal authorization for its disposal after it has served its useful purpose. The Congress requires only the important records be permanently retained, as indicated in the Federal Records Act of 1950 as follows:

Section 506(a) - The head of each Federal Agency shall cause to be made and preserved records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Agency and designed to furnish information necessary to protect the legal and financial rights of the government and of persons directly affected by the Agency's activities.

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